



California Fair Political Practices Commission

May 6, 1988

Larry L. Marshall
Jennings, Engstrand & Henrikson
2255 Camino del Rio South
San Diego, CA 92108

Re: Your Request for Advice
Our File No A-88-129

Dear Mr. Marshall:

You have requested advice on behalf of Mr. Philip Blair, a member of the board of directors of the Centre City Development Corporation, concerning his duties under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} This letter confirms our previous telephone advice.

This letter is limited to interpretation and analysis of the conflict-of-interest provisions of the Act. The Commission cannot provide advice concerning other provisions of law, such as Section 1090. Please contact the Attorney General's office if you wish to obtain advice concerning laws other than the Act.

QUESTION

May Mr. Blair avoid disclosure of income and disqualification from governmental decisions by endorsing a client's check over to a charitable organization?

CONCLUSION

If he claims no tax deduction for the charitable contribution, Mr. Blair may avoid disclosure of income and disqualification from governmental decisions by endorsing a client's check over to a charitable organization.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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FACTS

The City of San Diego has formed the Centre City Development Corporation, a nonprofit corporation, to undertake redevelopment activities in downtown San Diego. Centre City Development Corporation is governed by a board of directors who are public officials for purposes of the Act.

Mr. Blair is on the board of directors for Center City Development Corporation. He also is a 50-percent shareholder in CPM Limited, Inc., which does business as Manpower Temporary Services.

Manpower's permanent placement division has just received orders from Starboard Development Company to conduct a search and provide candidates to Starboard for certain employment opportunities. Manpower has eligible candidates. Fulfillment of these orders from Starboard would generate approximately \$6,000 in fees to Manpower. Mr. Blair would receive at least \$250 in income from the transaction.

Starboard Development Company currently is negotiating a disposition and development agreement with the Redevelopment Agency of the City of San Diego. Centre City Development Corporation acts as agent for the Redevelopment Agency in this transaction. It also is likely that Starboard will participate in future developments within the jurisdiction of Center City Development Corporation.

ANALYSIS

The Act's conflict-of-interest provisions require public officials to disclose their private economic interests and disqualify themselves from participating in decisions which could significantly affect those interests. (Sections 87100 - 87500.) Accordingly, Mr. Blair each year is required to disclose his sources of income of \$250 or more. (Sections 87207 and 87302.) In addition, he is required to disqualify himself from making, participating in, or using his official position to influence any governmental decision in which he knows or has reason to know he has a financial interest. (Section 87100.)

A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on, among other interests, any source of income totaling \$250 or more provided to, received by or promised to the official during the preceding 12 months. (Section 87103(c).) If Mr. Blair receives \$250 or more in

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income from Starboard Development Company, he would be required to disclose that income. In addition, he would be required to disqualify himself from participating in any decision before Center City Development Corporation where Starboard appeared before that agency as an applicant for a development project. (Regulation 18702.1(a)(1).)

Mr. Blair would like to participate in matters affecting Starboard Development Company which may come before his agency. Thus, he is willing to forgo the income which otherwise would be generated by his business transactions with Starboard. He proposes to donate that income to a charitable organization, specifically, the Children's Hospital and Health Center. One method proposed for making this donation is to endorse any check received from Starboard over to Children's Hospital.

We have previously advised that a public official receives no income for purposes of the Act if he signs over a check to a charitable organization and forgoes any income tax deduction for the charitable donation. (Vose Advice Letter, No. A-86-318, copy enclosed.) Thus, we conclude that Mr. Blair may avoid disclosure of income from Starboard and may participate in decisions affecting Starboard if he takes these steps.

We think that endorsing the check directly to the charitable organization is preferable to accepting the check from Starboard in the normal course of business and writing a separate check to the charitable organization. If Mr. Blair never deposits the check from Starboard, he is in the best position to state that he has received no income from Starboard. Please keep in mind that he also must forgo any income tax deduction for the charitable donation.

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:ld
Enclosure

88-129

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*ADMITTED IN ALABAMA AND TEXAS ONLY

March 25, 1988

Diane Griffiths, Esq.
General Counsel
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804

Re: Request For Advice Letter

Dear Ms. Griffiths:

Centre City Development
Corporation
Spreckels Building
121 Broadway, Ste. 601
San Diego, CA 92101-5074

I am writing in my capacity as General City Development Corporation, a California profit corporation created by the City of San Diego, to advise you that the members of the Board of Directors and designees of the Corporation will adhere to the provisions of the Political Reform Act of 1978 as acknowledged.

This request for advice comes from a member of the Board of Directors, Philip Blair, who is a fifty percent owner of CPM Limited, Inc., which does business as Manpower Temporary Services. Manpower's permanent placement division has just received orders from Starboard Development Company to conduct a search and provide candidates to Starboard for certain currently available positions. Manpower has eligible candidates and it is anticipated that fulfillment of these orders from Starboard will generate approximately \$6,000 in fees to Manpower. It is assumed that these fees will produce income in excess of \$250 to Mr. Blair.

Starboard Development Company is presently negotiating a Disposition and Development Agreement with the Redevelopment Agency of the City of San Diego with CCDC acting as agent for the Redevelopment Agency. It is also anticipated that Starboard may participate in future developments within the jurisdiction of CCDC.

Ms. Diane Griffiths
March 24, 1988
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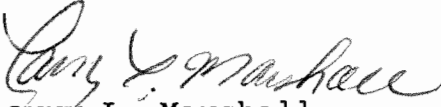
Mr. Blair would like to continue to participate in matters affecting Starboard Development Company which may come before the CCDC Board of Directors and is willing, on behalf of himself and Manpower, to forego the income which would otherwise be generated by providing the professional services requested by Starboard. His intention is to donate, or direct that the fees be donated, to a qualified charity, namely, Children's Hospital and Health Center. His first preference would be to receive the income in the normal course of business and then make a donation of the entire amount by way of a Manpower check. The second preferred alternative would be to endorse any check received from Starboard over to Children's Hospital. His least desired alternative is to direct that Starboard pay Children's Hospital the fees otherwise earned by Manpower.

In discussions with Ms. Katherine Donovan of your office we analogized the circumstances to the receipt of a gift which is then conveyed to a charity and thus would not operate to disqualify the official from participation. (2 Cal.Admin.Code §18726.1.) Please advise whether any of the three approaches suggested above would similarly permit Mr. Blair to continue to participate as a member of the Board of Directors of the Centre City Development Corporation in decision-making with respect to Starboard Development Company.

Please permit me to thank you in advance for your prompt attention to this request.

Very truly yours,

JENNINGS, ENGSTRAND & HENRIKSON,
A Professional Law Corporation



Larry L. Marshall
General Counsel
Centre City Development Corporation

LLM/mb

cc: John Davies, President
Pamela Hamilton, Acting Executive Director
Philip Blair, Director
LMFAIR.L1

FAIR POLITICAL PRACTICES COMMISSION
Advice File Summary (Rev. 6/87)

Type <u>A</u>	Year <u>1988</u>	Number <u>129</u>	Date Response Written <u>5-6-88</u>
Staff <u>Kathy Donovan</u>	Advisee <u>Marshall, Larry L.</u>	Agency <u>Jennings, Engstrand</u>	
Subject: Conflict of Interest <input checked="" type="checkbox"/> Campaign <input type="checkbox"/> Lobbying <input type="checkbox"/> SEI <input type="checkbox"/> Revolving Door <input type="checkbox"/> Levine Bill <input type="checkbox"/> Misc. <input type="checkbox"/>			
Code Sec./Reg. No. <u>87103(c); 87207; 87302</u>			

Summary:

Public official may avoid disclosure of income and disqualification ~~if~~ by endorsing a client's check over to charity. Must not take income tax deduction.

Advice Package Yes ☐ No ☐

Bulletin Summary:

Public official who owns temporary employment agency has a client who regularly appears before the official's agency on redevelopment projects. If the official forgoes income from the client by endorsing the client's check over to charity, the official may avoid disclosure of income from the client and disqualification. However, the official also must forgo any tax deduction based on the charitable contribution.



California Fair Political Practices Commission

March 29, 1988

Larry L. Marshall
Jennings, Engstrand & Henrikson
2255 Camino Del Rio South
San Diego, CA 92108

Re: 88-129

Dear Mr. Marshall:

Your letter requesting advice under the Political Reform Act was received on March 28, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh
cc: Philip Blair